IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 14978 of 2004

Between:

1 Narra Srinivasa Reddy, S/o. Venkat Reddy,
Akupamula PACS Munagala Mandal, Nalgonda District.
2 M. Raja Rao, S/o. Late M. Chandraiah,
Tellaballi PACS, Nandigudem Mandal, Nalgonda District.

..... PETITIONERS

AND

1 The Commissioner for Cooperation, Government of A.P., Hyderabad.
2 The District Cooperative Officer, Nalgonda, Nalgonda District.
3 The Divisional Cooperative Officer, Miryalaguda , Nalgonda District.
4 The Akupamula PACS Munagala Mandal, Nalgonda District.
Rep. by its Chairman/PIC
5 The Tellaballi PACS Nandigudem Mandal, Nalgonda District. Rep. by its Chairman/PIC

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned action of the respondents 2 and 3 in issuing directions for terminating the petitioner from service and consequential action of the respondents 4 and 5 societies in terminating the petitioners from service vide

proceedings dated 30-7-2004 without any notice or opportunity and even contrary to the provisions of G.O.Ms.No.94, dated 28-2-2004as highly illegal, arbitrary and violative of Art.14 and 21 of the Constitution of India apart from contrary to the provisions of A.P. shops and Establishment Act and consequently set aside the same

Counsel for the Petitioner:MR.G.V.SHIVAJI

Counsel for the Respondent Nos. 1 to 3 : GP FOR COOPERATION

Counsel for the Respondent Nos. 4 &5:MR.T.ANANTH GOUD

The Court made the following :

O R D E R:

The first petitioner worked as Clerk in the 4th respondent Society and the 2nd petitioner worked as Clerk in the 5th respondent Society. It is the case of the petitioners that the respective Societies by its Resolutions, dated 22.07.2004 and 26.03.2003 removed the services of the petitioners, on the ground that their appointments are made in violation of A.P. (Regulation of appointments to Public Services & Rationalisation of Staffing Pattern & Pay Structure) Act 1994 and their appointments are not approved by the Registrar of Co-operative Societies, as required under Section 116-C of the Andhra Pradesh Co-operative Societies Act. As long as the appointments of the staff are not made by the respective Societies by fixing the staffing pattern, qualifications, pay scales and other allowances, with the prior approval of the Registrar of Cooperative Societies Act, subject to the condition that the expenditure towards pay and allowances of the employees shall not exceed 2% of the working capital or 30% of the gross profit in terms of the actuals in a year, whichever is less, the services of those employees can be removed. As the names of the petitioners were also shown in the list and the said proposals were made in conformity with Section 116-Cof the Act, without taking any final decision, the removal of the petitioners is contrary to Section 116-C (1), read with Rules 36-B & 28(4) of the Act and also in violation of G.O.No.94, dated 28.02.2004.

The learned counsel appearing for the petitioners submits that the services of the petitioners were removed on the ground that their appointments were made in the

respective Societies Contrary to Section 116-C (1), read with Rules 36-B & 28-4 of the Rules and also in violation of G.O.Ms.No.94, dated 28.02.2004 and as the removal of the petitioners is made without any final decision on the said proposals, the termination orders are contrary to law.

I have taken a view in W.P.No.3171 of 2004 & batch, dated 30.08.2004, that the only criteria for removal of the services of the employees of Cooperative Societies must be made in accordance with the mandatory provisions of Section 116-C (1) of the Act. The Society has to submit its proposals either for continuance of the services of the petitioners or for their removal and it is having power to take an independent decision as to whether the appointment of the petitioners is made in violation of Act 2 of 1994 of the Act and their services cannot be terminated only on the directions of the Deputy Registrar of Co-operative Societies. Having regard to the facts and circumstances of the case, the respondents are directed to take appropriate action against the petitioners strictly in conformity with the mandatory provisions of Section 116-C of the Andhra Pradesh Co-operative Societies Act, without reference to G.O.Ms.No.94, dated 28.02.2004.

The writ petition is accordingly allowed. No costs.

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V.ESWARAIAH.J

05.11.2004

tjs

ASSISTANT REGISTRAR

To

1 The Commissioner for Cooperation, Government of A.P., Hyderabad.
2 The District Cooperative Officer, Nalgonda, Nalgonda District.
3 The Divisional Cooperative Officer, Miryalaguda , Nalgonda District.
4 The Chairman/PIC ,Akupamula PACS Munagala Mandal, Nalgonda District.
Rep. by its
5 The Chairman/PIC, Tellaballi PACS Nandigudem Mandal, Nalgonda District.

6 2 CCs to the G.P. for Co-operation, High Court of A.P., Hyderabad (OUT)

7 2 C.D.Copies.